

JOHN CONYERS, JR., Michigan
CHAIRMAN

HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JERROLD NADLER, New York
ROBERT C. "BOBBY" SCOTT, Virginia
MELVIN L. WATT, North Carolina
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
MAXINE WATERS, California
WILLIAM D. DELAHUNT, Massachusetts
ROBERT WEXLER, Florida
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
PEDRO, PIERLUISI, Puerto Rico
MIKE QUIGLEY, Illinois
LUIS V. GUTIERREZ, Illinois
BRAD SHERMAN, California
TAMMY BALDWIN, Wisconsin
CHARLES A. GONZALEZ, Texas
ANTHONY D. WEINER, New York
ADAM B. SCHIFF, California
DANIEL B. MAFFEI, New York
LINDA T. SANCHEZ, California
DEBBIE WASSERMAN SCHULTZ, Florida

LAMAR S. SMITH, Texas
RANKING MINORITY MEMBER

F. JAMES SENSENBRENNER, JR., Wisconsin
HOWARD COBLE, North Carolina
ELTON GALLEGLY, California
BOB GOODLATTE, Virginia
DANIEL E. LUNGREN, California
DARRELL E. ISSA, California
J. RANDY FORBES, Virginia
STEVE KING, Iowa
TRENT FRANKS, Arizona
LOUIE GOHMERT, Texas
JIM JORDAN, Ohio
TED POE, Texas
JASON CHAFFETZ, Utah
THOMAS ROONEY, Florida
GREGG HARPER, Mississippi

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

October 22, 2009

The Honorable Eric H. Holder
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Holder,

Media have reported that the Department of Justice has required, under the Voting Rights Act, a North Carolina town to reinstate the use of party affiliations in local elections in order to help ensure Democratic candidates are victorious.

In 2008, by a 2 to 1 margin, the City of Kinston, North Carolina voted to end the practice of noting the party affiliation of candidates in local elections.¹ However, this August, as *The Washington Times* reports, Acting Assistant Attorney General for Civil Rights, Loretta King, informed the City that the removal of party affiliations in its city council and mayoral elections violated the Voting Rights Act. Ms. King is quoted as stating, "Removing the partisan cue in municipal elections will, in all likelihood, eliminate the single factor that allows black candidates to be elected to office."²

Thus, it would appear, according to these reports, the Department has determined that under the Voting Rights Act only "partisan cues" and the election of African-American Democrat candidates will further the interests of racial equality.

Such a conclusion is a distortion of the Voting Rights Act to help ensure the partisan outcome of electing Democratic-affiliated politicians. Kinston is a majority African-American city with 65 percent of registered voters being African-American in November 2008, when residents voted to end the practice of partisan affiliation. The very voters the Department claims it is protecting are the same voters who decided to end the partisan system that the Department has now mandated be put back into place. Thus it is illogical to conclude that these same voters

¹ See Hans Von Spakovsky, "The Politics of (In)Justice," National Review Online (Sept. 28, 2009) (available at: <http://article.nationalreview.com/print/?q=OWIwNWlxMjE5ZDI0OTRkYTU3NmY1Yjg1N2JhZDFIMDY=>) (last accessed Oct. 21, 2009).

² Ben Conery, "Justice Concludes Black Voters Need Democratic Party," *The Washington Times*, Oct. 20, 2009.

The Hon. Eric H. Holder
October 22, 2009
Page Two

somehow face barriers to voter registration or voting. In fact, it appears that the real problem in Kinston is voter apathy. Indeed, one City Council member noted that he is "very disappointed with the apathy that we have in Kinston among the Afro-American voters."³ Voter apathy is hardly a problem that the Voting Rights Act was intended to address. Even the President of the local branch of the National Association for the Advancement of Colored People expressed "skepticism" about the Department's involvement in this matter.⁴

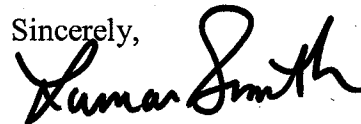
The Department's overreaching to overturn a local election in order to ensure that members of the Democratic Party are elected to office is clearly outside of Congress's intent in passing and reauthorizing the Voting Rights Act. The Voting Rights Act was intended to address racial discrimination that has the effect of limiting or preventing all Americans from having their voice heard through the electoral process. It was not intended to address voter apathy or ensure the victory of a particular party's candidates.

Unfortunately, the Department's actions in this case only further support my concerns that the Department's decisions have become increasingly political in nature under your leadership. The Department's decision regarding Kinston's local elections comes only months after the same official in the Civil Rights Division concluded that individuals stationed at the door of a polling location, dressed in paramilitary clothing, yielding a baton, and making threatening statements to voters did not violate the Voting Rights Act. It seems preposterous to argue that ending partisan affiliation is more dangerous to the notion racial equality in our electoral system than are men dressed in paramilitary uniform, brandishing a weapon outside of a polling location on Election Day.

Yesterday I wrote Chairman Conyers requesting that the Committee hold a hearing on the Department's actions concerning the City of Kinston, North Carolina. Similarly, I request that you make arrangements to make available the appropriate employees of the Department to brief my staff on this matter, and provide all documents related to the Department's actions in this matter, no later than November 6, 2009.

I look forward to your reply.

Sincerely,



Lamar Smith
Ranking Member

cc: The Honorable John Conyers, Jr.

³ *Id.*

⁴ *Id.*